

## REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a full and complete response to the Office Action dated December 26, 2006. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due reconsideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

### Status of the Claims

Claims 1-12 are under consideration in this application.

### Additional Amendments

Fig. 2 is being corrected to be consistent with Fig. 2 and the relevant description of the priority document Japanese patent application No. 2003-367782, which is supported by the concurrently-filed Declaration of Inventor under 37 C.F.R. §1.132. Applicants hereby submit that no new matter is being introduced into the application through the submission of this response.

### Allowed Subject Matter

Claim 12 was allowed, and claims 2-4 and 7-11 would be allowed if rewritten in independent form to include all limitations of the base claim and any intervening claims.

### Prior Art Rejection

Claims 1 and 5-6 were rejected under 35 U.S.C. §103 (a) as being unpatentable over US Pub. No. 2002/0136122 of Nakano (hereinafter "Nakano") in view of the prior art shown in Fig. 2. This rejection has been carefully considered, but is most respectfully traversed, as more fully discussed below.

The information recording apparatus of the invention (for example, the embodiment depicted in Fig. 1), as recited in claim 1, comprises: a recording medium 101 having two information recording layers 103, 105 stacked one upon the other in which information is recorded as their states are varied upon light irradiation; a light source 107; an optical system for focusing light from said light source 107 selectively on a first information recording layer 105 located closer to the side on which the light is incident and on a second information recording layer 103 farther from the side on which the light is incident; a first photodetector

115 for detecting light reflected by either said first or said second information recording layer on which the light from said light source 107 is focused; a second photodetector 116 for detecting light reflected by said first information recording layer 105 when the light from said light source 107 is focused on said second information recording layer 103; and a control circuit for controlling the power of the light with which said second information recording layer 103 is irradiated, based on a detection signal from said second photodetector 116.

The invention recited in claim 6 is directed to an information recording method for recording information in a recording medium 101 of claim 1 comprising: acquiring, in a test writing operation, a first optimum power value for recording, through a recorded region in a first information recording layer 105 located closer to the side on which light is incident, in a second information recording layer 103 located farther from the side on which light is incident, and the intensity of a first reflected light from said first information recording layer 105 at that time, and a second optimum power value for recording, through an unrecorded region in said first information recording layer 105 located closer to the side on which light is incident, in said second information recording layer 103 located farther from the side on which light is incident, and the intensity of a second reflected light from said first information recording layer 105 at that time; detecting the intensity of reflected light from said first information recording layer 105 when light is focused on said second information recording layer 103; and controlling the power of the light with which said second information recording layer 103 is irradiated, based on the detected signal.

Applicants respectfully contend that none of the cited prior art references teaches or suggests such a " second photodetector 116 for detecting light reflected by said first information recording layer 105 when the light from said light source 107 is focused on said second information recording layer 103," or such a "control circuit for controlling the power of the light with which said second information recording layer 103 is irradiated, based on a detection signal from said second photodetector 116," or the corresponding detecting and controlling steps, according to the invention.

In contrast, Nakano only provides a first photodetector. The prior art shown in Fig. 2 was relied upon by the Examiner (p. 3, last paragraph of the outstanding Office Action) to teach the second photodetector 116 of the present invention. However, as supported by Fig. 2 and the relevant description of the priority document Japanese patent application No. 2003-367782, as well as the concurrently file Declaration of Inventor under 37 C.F.R. §1.132, Fig. 2 as filed in the above-referenced application mistakenly included a second photo-detector

116 in addition to a first photo-detector 115. Therefore, the prior art shown in Fig. 2 does not include the second photodetector 116 of the present invention.

Applicants contend that the prior art fails to teach or support each and every feature of the present invention as recited in independent claims 1 and 6. As such, the present invention as now claimed is distinguishable and thereby allowable over the rejections raised in the Office Action. The withdrawal of the outstanding prior art rejections is in order, and is thus respectfully solicited.

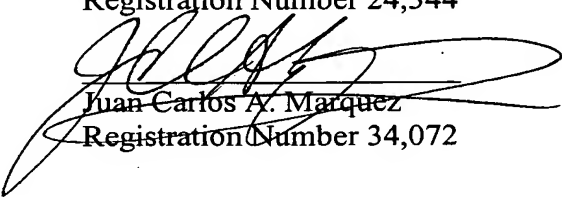
### Conclusion

In view of all the above, clear and distinct differences as discussed exist between the present invention as now claimed and the prior art reference upon which the rejections in the Office Action rely, Applicants respectfully contend that the prior art references cannot anticipate the present invention or render the present invention obvious. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicants' undersigned representative at the address and telephone number indicated below.

Respectfully submitted,

\_\_\_\_\_  
Stanley P. Fisher  
Registration Number 24,344

  
Juan Carlos A. Marquez  
Registration Number 34,072

**REED SMITH LLP**  
3110 Fairview Park Drive, Suite 1400  
Falls Church, Virginia 22042  
(703) 641-4200

**March 20, 2007**  
SPF/JCM/JT